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## LETTER FROM GERMANY.

Berlin, Prussia, 1856.

The extent of individual freedom in the selection of one's Creed and Ecclesiastical Relations in Germany.

Our last two or three letters have not only illustrated, to some extent, the historical and present relations of the two great religious parties that have struggled together in Germany, but to some extent also, the gradual attainment of the idea of general religious toleration. So liable, however, is this expression to be misunderstood in America that I feel necessitated to add a few remarks on the practical freedom which prevails here in the selection or change of one's creed and ecclesiastical relations. They will serve at the same time to show the almost insuperable difficulties, which our mission is forced to encounter, the prudence and wisdom required in the adaptation of its operations to the local arrangements of the different political powers.

A great and essential difference between religious operations with us, and here in Germany, is this. In America there is a great bulk of the population, often by the majority, outside of every church, and making no religious professions whatsoever. They would doubtless call themselves Christians, in distinction from Jews, Mohammedans and Heathens, but that is all. For the conversion and ingathering of this non-religious population every church feels solemnly called upon to pray and labor. Altogether different is the state of things here. Everybody here who is not disposed to be called a Jew, Mohammedan or Heathen, is a "Christian," and belongs to some church. The mission of the church seems to be edification exclusively. On its own soil there is no room for militant enterprise. The way in which this fact affects individual freedom in the selection or change of one's religious relationships is easily seen.

First and foremost it is a ground law in Church and State that the selection of the faith in which a child shall be brought up depends upon the parents—which faith of course will be one which they themselves profess. At all events they are bound to bring him up in *some* faith—it is not a matter of indifference. In a State, therefore, where the adherents to the three Christian confessions—Catholic, Lutheran and Reformed—possess equal civil and political rights, the civil power pays no attention to the selection, leaving the parents entirely free to bring up the child in their own faith. Suppose now there is a difference of opinion on the part of the parents, and the matter brought before a court, the law decides in favor of the father. This law prevails through all the German States. Provision must be made also for cases where a compact was made between the parents before marriage, and the father refuses to be held by a promise which the mother made. In such cases in recent times the law has generally pronounced such compacts *invalid* and *unlawful*; *non actum*—if I must use the law term, leaving its influence on non fulfillment to the conscience of the party. The reason usually given for this decision is, that the attempt to enforce such a contract, and hold the unwilling party to its terms, would only introduce a kind of guardianship into the family utterly repugnant to all ancient and modern notions of domestic freedom.

Second, the direction of the child's education naturally devolves upon the mother, and no relatives are allowed to interfere. In cases of orphanage, the guardian may not follow his own choice, but must always abide by the directions given him. Hence, of course, guardians are almost universally selected from the church to which the parents belonged. What provisions are made for the determination of the religious education of foundlings, I have not learned.

The particularity of the provisions of German law respecting this matter will not seem remarkable, when we remember the immense interests dependent upon the religious creed and relations of princes, in a country where it is the conceded right of each, to determine the dominant religion of his land. Could either party succeed by hook or crook in bringing up an heir to one of these principalities in a religion contrary to the established one of his subjects, of course, his accession would be a signal for revolution, and a disturbance of the nicely adjusted political equilibrium of all Europe. Hence great precaution is requisite on the part of the civil power to make religious persuasions *absolutely hereditary*. In no other way is the stability and continuance of the present political organization of Europe possible. But, in spite of every legal enactment, the fact remains unaltered and unalterable, that of the three prevalent churches in which the people are brought up, each cannot be the best, and as each has excellences which are lacking in the others, there always will be some who despite every educational influence—every association—every force of habit, will be anxious to leave the church in which they find themselves without any desire or choice on their part, and connect themselves with another organization. What are the provisions in such cases?

According to the canonical law of the ancient church, while as yet it was a unit, every withdrawal from communion was pronounced a *crime*; and such was the relation of the church to the Roman Empire after the conversion of Constantine, that, in the Roman civil law, it was forbidden under penalty of "infamia," or "confession," loss of the "testamentary faculty," and even death. These penal laws passed over into the jurisprudence of the German Empire and were several times imperially ratified in the thirteenth century. It is said that in the Hamburg criminal court "ordning," hereby, is still pronounced a capital crime.

Since the essential alteration which was wrought in the ground principles of German jurisprudence by the Reformation, however, all secular punishment of such as hold different views from their brethren of the church in which they find themselves, is given up, and the church itself limited to such discipline of the stray brother as prevails amongst us. Still, the civil power is by no means indifferent to the transition of individuals from one church to another. In order to secure stability and permanency of the civil and political adjustment of the European States, to which we have just alluded, it is of primary and almost unexpressed importance to render such transitions as rare as possible. Not only is each church interested to keep all her members, but the State is interested to have her. Hence, in several of the German States there has been legislation upon the subject and laws promulgated expressly forbidding controversial sermons and "proselytism." Such is the case here in Prussia, and should a Methodist missionary make his appearance here in Berlin, to look after that forty-seven-fiftieths of her population of which I lately told you, it is evident, how easily under one of the other of these specifications, he might be found guilty of a breach of civil law, and furnished with an opportunity to meditate on the boasted toleration of the nineteenth century in that very quiet place just west of the Hamburg and Berlin Depot, where law breakers usually go.

In case an individual in any of these tolerated churches desires to pass over to another, there are provisions in all the States enabling him to make the transition. These provisions differ however in the different States very materially, and in some it is little short of an absolute impossibility. In the first place it must in all cases be made out, (1) that no secular inducements have been offered by the church with which he proposes to unite—none at all; (2) that the subject *consent* not conscientiously remain in his present ecclesiastical relations. Again, the individual must have attained to "years of discretion," or his desires will not be regarded. This being so indefinite, several of the States—Prussia, Hanover and Bavaria among the number—have designated the fourteenth, as the "annus discretionis." In order to prevent secret transitions, whenever an individual has fled his resolution to abandon the church in which he can no longer conscientiously remain, he is obliged to give a notice to his pastor, and subject himself to special "labor," as presiding elders significantly term it. In Austria, before the late concordat, and doubtless it is still worse now, a Catholic who wished to join the Lutheran Church must put himself for six weeks in the hands of his pastor to be "instructed," during which time all intercourse with Protestants was strictly forbidden. If he lived through this, the pastor took him before a magistrate, made a deposition setting forth the obstinacy of the poor heretic, and the faithfulness with which he had labored to avert his apostasy, after which the magistrate gave the poor man a document by which he was enabled to join a Protestant Church. Before receiving the new convert it is customary to demand a confession of his faith, until this is given the bishop in the Catholic and the superintendent in the "Evangelical" Church is authorized to exclude him from the sacrament of the Lord's Supper. The Catholics furthermore demand an abjuration of former heresy in certain particular formulas which differ in different localities.

Respecting the results of a transition from one church to another upon one's children, the legislation in the different States is by no means harmonious. Some of the highest authorities here in Prussia—Prof. Richter among the number—teach in their law treatises that where the "annus discretionis" should remain by the old faith; those under that age, follow their father.

The question whether Jews shall be allowed to receive converts from Christianity, has occasioned much discussion. Prussia seems to have granted liberty once, but by a cabinet's order of 1814 to have forbidden it again. In the Prussian Provincial Synod of 1844, much debate was held upon it, and rather a preponderance of voices favored the grant of such liberty under certain restrictions.

But I forget, Mr. Editor, that perhaps a majority of your readers may not be intending to apply for admittance to the German Bar, and that they will be likely to say they can dispense with further lecturing on canonical law in that country until they form such an intention. Remembering my answerability before the tribunal of their patience, I will close in just one paragraph.

From what we have presented before it is evident in the first place, that "as a man is free as he pleases," there is no such thing as a *religion* in Germany. All except the Jews—and their number is insignificant—find themselves as soon as they arrive at years of reflection already borne into members of a church. If a man asks himself why he is a member of a Lutheran Church, the only reason he can give is very similar to Topsy's, "I was made so!" If a Catholic asks why he is not a Protestant, he is forced to answer—because my great great grandfather was very conservative, and not carried away in the Lutheran whirlwind. The whole order of things here, as I have said, is to make religious persuasions absolutely hereditary. That is, just because, in the wild emotions which followed the promulgation of Luther's Theology, out of political reasons, constitutional impetuosity, ignorance, and a thousand other things one man said each prince shall have his *episcopal* religion, and another, he shall not, or just because from very similar reasons one man adopted the doctrine of absolute predestination, and another that of consubstantiation, therefore forth the descendants of each must follow that blind, heated choice of a half barbarous forefather down to the thousandth generation! Had I been born here, and made a Lutheran Church member, I should be strongly tempted to go over to the Catholics just for the sake of showing my independence!—Thus no one has an original choice either of creed or church: let us see what better it is respecting a subsequent personal choice. I think it will not be unwise to say that there is almost as little liberty in this case as in the former. 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